

ATTORNEY DOCKET NO.
062891.0508
Confirmation No.: 8274

PATENT APPLICATION
10/004,320

1

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
ON APPEAL FROM THE EXAMINER TO THE BOARD
OF PATENT APPEALS AND INTERFERENCES**

In re Application of: Balaji S. Holur et al.
Serial No.: 10/004,320
Filing Date: October 30, 2001
Group Art Unit: 2617
Confirmation No.: 8274
Examiner: Bryan J. Fox
Title: *Method and System for Managing Pushed Data at a Mobile Unit*

MAIL STOP APPEAL BRIEF - PATENTS

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Dear Sir:

APPEAL BRIEF

Appellant has appealed to the Board of Patent Appeals and Interferences from the decision of the Examiner mailed December 13, 2007, finally rejecting Claims 1-33, and the Advisory Action mailed February 7, 2008 rejecting Claims 1-32 and allowing Claim 33. Appellant filed a Notice of Appeal on February 19, 2008.

ATTORNEY DOCKET NO.
062891.0508
Confirmation No.: 8274

PATENT APPLICATION
10/004,320

Table of Contents

<u>Real Party in Interest</u>	3
<u>Related Appeals and Interferences</u>	4
<u>Status of Claims</u>	5
<u>Status of Amendments</u>	6
<u>Summary of Claimed Subject Matter</u>	7
<u>Grounds of Rejection to be Reviewed on Appeal</u>	9
<u>Argument</u>	10
<u>Conclusion</u>	16
<u>Appendix A: Claims on Appeal</u>	17
<u>Appendix B: Evidence</u>	26
<u>Appendix C: Related Proceedings</u>	27

ATTORNEY DOCKET NO.
062891.0508
Confirmation No.: 8274

PATENT APPLICATION
10/004,320

Real Party in Interest

This application is currently owned by Cisco Technology, Inc., as indicated by an assignment recorded on October 30, 2001, in the Assignment Records of the United States Patent and Trademark Office at Reel 012361, Frame 0215.

ATTORNEY DOCKET NO.
062891.0508
Confirmation No.: 8274

PATENT APPLICATION
10/004,320

Related Appeals and Interferences

There are no known appeals or interferences, which will directly affect or be directly affected by or have a bearing on the Board's decision regarding this appeal.

ATTORNEY DOCKET NO.
062891.0508
Confirmation No.: 8274

PATENT APPLICATION
10/004,320

Status of Claims

Claims 1-32 are pending in this application. Claims 1-32 are rejected pursuant to a Final Office Action mailed December 13, 2007, and Claim 33 was allowed pursuant to an Advisory Action mailed February 7, 2008. All pending claims are presented for appeal. All pending claims are shown in Appendix A.

ATTORNEY DOCKET NO.
062891.0508
Confirmation No.: 8274

PATENT APPLICATION
10/004,320

Status of Amendments

All amendments submitted by Appellant were entered by the Examiner before the issuance of the Final Office Action mailed December 13, 2007.

Summary of Claimed Subject Matter

Independent Claim 1 recites a method for managing pushed data at a mobile unit. The subject matter of Independent Claim 1 is generally illustrated by FIGURES 1 and 5: FIGURE 5 being a flowchart that summarizes an operation of the mobile unit. (See Specification at pages 36-37, which outline this call flow.) The method includes receiving an out-of-band message at a mobile unit (element 14 of FIGURE 1) and analyzing the message to determine if it contains pushed data. (See Step 508 of FIGURE 5.) The pushed data reflects a server initiated data transfer that is based on predetermined criteria. The method also includes determining, if the message contains pushed data, whether the data is appropriate for a session currently being hosted by the mobile unit. In addition, the method includes posting the data to the session if the data is appropriate for the session. (See Steps 512-536 of FIGURE 5 and pages 27-28 of the Specification.) The determining and posting operations cooperate in order to achieve a filtering function for the mobile unit such that only selected data is posted to the session.

Independent Claims 9 and 17 are analogous and recite similar limitations. For example, Independent Claim 9 and 17 recite a computer medium and a system respectively. Each of these Independent Claims recite receiving an out-of-band message at a mobile unit (element 14 of FIGURE 1) and analyzing the message to determine if it contains pushed data. (See Step 508 of FIGURE 5.) The pushed data reflects a server initiated data transfer that is based on predetermined criteria. Independent Claims 9 and 17 also include determining, if the message contains pushed data, whether the data is appropriate for a session currently being hosted by the mobile unit. In addition, Independent Claims 9 and 17 include posting the data to the session if the data is appropriate for the session. (See Steps 512-536 of FIGURE 5 and pages 27-28 of the Specification.) The determining and posting operations cooperate in order to achieve a filtering function for the mobile unit such that only selected data is posted to the session.

Independent Claim 25 recites a system for managing pushed data at a mobile unit, including a service access manager (item #224 in FIGURE 3) operable to receive an out-of-band message at a mobile unit and analyze the message to determine if it contains pushed

data. The pushed data reflects a server initiated data transfer that is based on predetermined criteria. The system also includes a data push manager (item #225 in FIGURE 3) operable to determine, if the message contains pushed data, whether the data is appropriate for a session currently being hosted by the mobile unit and to post the data to the session if the data is appropriate for the session, wherein the determining and posting operations cooperate in order to achieve a filtering function for the mobile unit such that only selected data is posted to the session. (See Steps 512-536 of FIGURE 5 and pages 27-28 of the Specification.)

Independent Claim 33 is somewhat analogous to Independent Claim 1. Independent Claim 33 recites everything from Independent Claim 1, as well as a service access manager (item #224 in FIGURE 3) that analyzes the data to determine if it is static or dynamic, initiates storing the data if it is static, determines, if the data is dynamic, whether to store the data, initiates storing the dynamic data if it should be stored, detects the initiation of a session, determines whether stored static data is appropriate for the session being initiated, posts the stored static data to the session being initiated if the stored data is appropriate, determines whether a trigger has been met for stored dynamic data, determines, if a trigger has been met, whether the dynamic data is appropriate for a session currently being hosted by the mobile unit, and posts the dynamic data to the session if the data is appropriate. (See Specification at page 28, line 11 — page 29, line 14.)

Grounds of Rejection to be Reviewed on Appeal

Appellant requests that the Board review the Examiner rejection of Claims 1, 9, 17, and 25 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,694,396 issued to Salmi (hereinafter "*Salmi*").

Appellant requests that the Board review the Examiner rejections of Claims 2-4, 6, 7, 10-12, 14, 15, 18-20, 22, 23, 26-28, 30, 31 and under 35 U.S.C. §103(a) as being unpatentable over *Salmi* in view of U.S. Patent No. 6,119,014 issued to Alperovich et al. (hereinafter "*Alperovich*").

Appellant requests that the Board review the Examiner rejection of Claims 5, 13, 21, 29, and 32 under 35 U.S.C. § 103(a) as being unpatentable over *Salmi* in view of *Alperovich* applied to Claims 4, 12, 20, 28 and 25, and further in view of what is well known in the art.

Appellant requests that the Board review the Examiner rejections of Claims 8, 16, 24, and 32 under 35 U.S.C. § 103(a) as being unpatentable over *Salmi* in view of U.S. Patent Publication No. 2001/0041571A1 issued to Yuan (hereinafter "*Yuan*").

Argument

I. *Salmi Does Not Anticipate Independent Claim 1.*

As a preliminary matter, Applicant is somewhat disappointed that once again this case is being briefed for an Appeal. This case, originally filed in October 2001, was previously at this stage when the Examiner reopened prosecution due to [presumably] weak references. Applicant is glad to have this case in front of the Board again and is hopeful of a proper resolution to this matter.

Applicant respectfully reminds the Board that a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.¹ In addition, “[t]he identical invention must be shown in as complete detail as is contained in the . . . claims” and “[t]he elements must be arranged as required by the claim.”² In regard to inherency of a reference, “[t]he fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic.”³ Thus, in relying upon the theory of inherency, an Examiner must provide a basis in fact and/or technical reasoning to support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art.⁴

Turning directly to the merits of the proffered §102 rejection, *Salmi* addresses “Message Classes” as the Examiner has identified. Specifically, *Salmi* explains:

“Thus, as one field the headers have the classification data of a message according to the invention in the field Message Class, which in a preferred embodiment can be i) Personal ii) Advertisement or iii) Informative and which thus tells that the message is either i) personal, i.e. either personal information originating from a server or a message originating from another terminal (subscriber connection), ii) an

¹ *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987); MPEP §2131.

² *Richardson v. Suzuki Motor Co.*, 9 USPQ 2d 1913, 1920 (Fed. Cir. 1989); *In re Bond*, 15 USPQ 2d 1566 (Fed. Cir. 1990); MPEP §2131 (*emphasis added*).

³ MPEP §2112 (citing *In re Rijckaert*, 9 F.3d 1531, 1534, 28 USPQ 2d 1955, 1957 (Fed. Cir. 1993) (*emphasis in original*)).

⁴ MPEP §2112 (citing *Ex Parte Levy*, 17 USPQ 2d 1461, 1464 (Bd. Pat. at App. and Inter. 1990) (*emphasis in original*)).

advertisement message typically containing commercial advertisement information or iii) an informative message containing information related to some subject, such as weather information, stock exchange information, news, etc.”

But where *Salmi* falls short is in the identification of the message protocol: said more directly, the way in which *the actual message was communicated*.

“Out-of-band” communications [as the name implies] is data received outside of a normal channel (i.e. the in-band). The normal in-band channel is typically reserved for voice or data (most often e-mail). Simple telephony calls are not generally performed ‘out-of-band.’ So when *Salmi* is discussing “Personal” calls [above], it is still not discerning which are out-of-band signals. Similarly, conventional e-mail is not considered “out-of-band” so when *Salmi* discusses “Advertisements” there is no distinguishing component that identifies whether the incoming information is ‘out-of-band.’ This becomes important in the context of Independent Claim 1, as only the ‘out-of-band’ signaling is being evaluated to determine if it includes pushed data. This out-of-band vs. in-band differentiation is not akin to evaluating Advertising Data vs. Personal Data, as either type of data could include both. In this way, distinguishing between “Message Classes” in *Salmi* is somewhat irrelevant to the teachings of the present invention.

In regards to ‘pushed data’, this information is typically [automatically] *pushed* to a given mobile, as the information becomes available from the server. This is why Independent Claim 1 calls out that the pushed data is “server initiated.” For example, if a stock price suddenly reaches some high point or hits some floor, an end user that signed up for some subscription could be notified through *out-of-band signaling* that included *pushed data*. These notifications are based on “predetermined criteria,” which is also outlined by Independent Claim 1. (See page 24-28 of Applicant’s Specification for support).

Salmi is also flawed in that it fails to discern whether that incoming data is appropriate for a session currently being hosted by the mobile unit. For example, if a user were talking to his stockbroker, then pushed data associated with stock prices would be ‘appropriate’ to post to the session concurrently. [This optional-posting feature is also outlined by Independent Claim 1.] But such would not be the case of an innocuous weather

report, which would not be relevant to such a financial conversation. Similarly, pushed data concerning a weather forecast while an end user was traveling may be pertinent at that time, but stock prices would not be relevant while the end user is sending e-mail to a family member. Independent Claim 1 goes even further to explain how only appropriate data would be posted to the session currently being hosted by the mobile session. So this decision to post, because it is based on the current session being hosted, is done in real-time. Logically, this only makes sense because the decision to post is based on a current parameter: namely, the current session being hosted. Once again, *Salmi* falls short in providing these teachings.

Salmi is flawed in that it does not make an initial determination of whether an incoming message includes pushed data. (See page 27-28 of Applicant's Specification for support). Specifically, Independent Claim 1 recites, "...analyzing the message to determine if it contains pushed data, wherein the pushed data reflects a server initiated data transfer that is based on predetermined criteria; determining, if the message contains pushed data, whether the data is appropriate for a session currently being hosted by the mobile unit; and posting the data to the session if the data is appropriate for the session, wherein the determining and posting operations cooperate in order to achieve a filtering function for the mobile unit such that only selected data is posted to the session."

Salmi fails to make this initial analysis of the incoming data. At the passage cited by the Examiner for this limitation (e.g., Column 15 generally), there is no disclosure of this step. Additionally, there is no coordination of this data to the instant session being conducted in cases where it is appropriate to do so. Any predefining of attributes (as the Examiner has highlighted in his rejection) is not akin to the real-time decision to post data, where appropriate.

For at least these reasons, Independent Claim 1 is clearly allowable over *Salmi*. In addition, the other Independent Claims (and their respective dependents) should be allowed for similar or analogous reasons. Notice to this effect is respectfully requested.

II. *The Remaining §103 Rejections are Flawed*

Applicant respectfully reminds the Examiner that in order to establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation; either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Third, the prior reference (or references when combined) must teach or suggest all of the claim limitations.⁵

As an initial matter, the Examiner has failed to meet his burden with respect to the third criteria of non-obviousness, as none of the references cited by the Examiner discloses all of the limitations of the pending claims, as highlighted above.

Furthermore, the Examiner is precluded from modifying the combined teachings of *Salmi*, *Alperovich*, and *Yuan* in an effort to teach the limitations of the pending claims because there is no indication in any of the references as to the desirability of making such modifications. The cited references must disclose the desirability of making the proposed modification.⁶ The fact that the modification is possible or even advantageous is not enough.⁷ A prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention.⁸

With respect to the second criterion of non-obviousness, the Examiner has also failed to show a reasonable expectation of success for the proposed combinations. It is not clear that the combinations would be capable of performing the operations required by the claimed invention. The proposed combination (presumptively) attempts to combine divergent subject matter that has not been shown to be capable of operating according to any degree of predictability. The Examiner, without resorting to improper hindsight to look through the claimed invention, has not addressed the chance that the proposed combination would have any success whatsoever: let alone a reasonable expectation of success as is required. Therefore, Applicant respectfully submits that the Examiner has failed to establish the second criteria for a prima facie case of obviousness.

⁵ See M.P.E.P. § 2142-43.

⁶ *In re Mills*, 916 F.2d 680, 682 (Fed. Cir. 1990).

⁷ See *In re Gordon*, 733 F.2d 900 (Fed. Cir. 1984).

⁸ *W.L. Gore & Assocs., Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984). (See also M.P.E.P. §2141.02).

It is also worth noting that, even if all elements of a claim are disclosed in various prior art references, which is certainly not the case here as discussed below, the claimed invention taken as a whole still cannot be said to be obvious without some reason why one of ordinary skill at the time of the invention would have been prompted to modify the teachings of a reference or combine the teachings of multiple references to arrive at the claimed invention.

The controlling case law, rules, and guidelines repeatedly warn against using an applicant's disclosure as a blueprint to reconstruct the claimed invention. For example, the M.P.E.P. states, "The tendency to resort to 'hindsight' based upon applicant's disclosure is often difficult to avoid due to the very nature of the examination process. However, impermissible hindsight must be avoided and the legal conclusion must be reached on the basis of the facts gleaned from the prior art." M.P.E.P. § 2142.

The U.S. Supreme Court's recent decision in *KSR Int'l Co. v. Teleflex, Inc.* reiterated the requirement that Examiners provide an explanation as to why the claimed invention would have been obvious. *KSR Int'l Co. v. Teleflex, Inc.*, 127 S.Ct. 1727 (2007). The analysis regarding an apparent reason to combine the known elements in the fashion claimed in the patent at issue "should be made explicit." *KSR*, 127 S.Ct. at 1740-41. "Rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *Id.* at 1741 (internal quotations omitted).

The new examination guidelines issued by the United States Patent and Trademark Office ("PTO") in response to the *KSR* decision further emphasize the importance of an explicit, articulated reason why the claimed invention is obvious. Those guidelines state, in part, that "[t]he key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. The Supreme Court in *KSR* noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit." *Examination Guidelines for Determining Obviousness Under 35 U.S.C. 103 in View of the Supreme Court Decision in KSR International Co. v. Teleflex Inc.*, 72 Fed. Reg. 57526, 57528-29 (Oct. 10, 2007) (internal citations omitted). The guidelines further describe a number of rationales that, in the PTO's view, can support a finding of obviousness. *Id.* at

57529-34. The guidelines set forth a number of particular findings of fact that must be made and explained by the Examiner to support a finding of obviousness based on one of those rationales. *See id.* Based on well-established case law, it would appear that the references appear flawed in that none addresses the PBX structure as outlined herein: much less many of the specific capabilities explained supra.

For at least these reasons, Independent Claim 1 is clearly allowable over the proposed combinations. In addition, Independent Claims 9, 17, 25, and 33 include a limitation that is similar, but not identical, to that of Independent Claim 1. Accordingly, these Independent Claims are also allowable over the proffered combinations using a similar rationale. Additionally, the dependent claims corresponding of these Independent Claims are also allowable for analogous reasons.

Thus, all of the pending claims have been shown to be allowable as they are patentable over the references of record. Notice to this effect is respectfully requested in the form of a full allowance of these claims.

ATTORNEY DOCKET NO.
062891.0508
Confirmation No.: 8274

PATENT APPLICATION
10/004,320

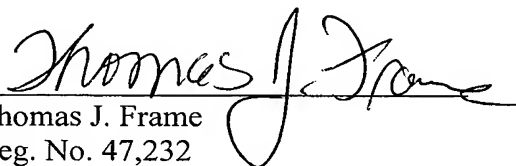
16

Conclusion

Appellant has demonstrated that the present invention, as claimed, is clearly distinguishable over the prior art cited by the Examiner. Therefore, Appellant respectfully requests the Board of Patent Appeals and Interferences to reverse the final rejection of the Examiner and instruct the Examiner to issue a notice of allowance of all claims.

The Commissioner is hereby authorized to charge the statutory fee of \$510.00 to Deposit Account No. 02-0384. In addition, the Commissioner is hereby authorized to charge any amount required and credit any overpayment to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,
BAKER BOTTS L.L.P.
Attorneys for Applicant


Thomas J. Frame
Reg. No. 47,232

Date: March 17, 2008

Customer No. **05073**

Appendix A: Claims on Appeal

1. (Previously Presented) A method for managing pushed data at a mobile unit, the method comprising:

receiving an out-of-band message at a mobile unit;

analyzing the message to determine if it contains pushed data, wherein the pushed data reflects a server initiated data transfer that is based on predetermined criteria;

determining, if the message contains pushed data, whether the data is appropriate for a session currently being hosted by the mobile unit; and

posting the data to the session if the data is appropriate for the session, wherein the determining and posting operations cooperate in order to achieve a filtering function for the mobile unit such that only selected data is posted to the session.

2. (Original) The method of Claim 1, further comprising:

analyzing the data to determine if it is static or dynamic; and

storing the data if it is static.

3. (Original) The method of Claim 2, wherein analyzing the data comprises determining whether an indicator in the data indicates that the data is dynamic.

4. (Original) The method of Claim 2, further comprising:

determining, if the data is dynamic, whether to store the data; and

storing the dynamic data if it should be stored.

5. (Original) The method of Claim 4, wherein determining whether to store the data comprises determining whether an indicator in the data indicates that the data should be stored.

6. (Original) The method of Claim 4, further comprising:
determining whether a trigger has been met for stored dynamic data;
determining, if a trigger has been met, whether the data is appropriate for a session currently being hosted by the mobile unit; and
posting the data to the session if the data is appropriate.
7. (Original) The method of Claim 2, further comprising:
detecting the initiation of a session;
determining whether stored static data is appropriate for the session being initiated;
and
posting the stored data to the session being initiated if the stored data is appropriate.
8. (Original) The method of Claim 1, wherein the data is received out-of-band in a vendor-specific extension of an agent advertisement message.

9. (Previously Presented) A system for managing pushed data at a mobile unit, comprising:

a computer-processable medium; and

logic stored on the computer-processable medium, the logic operable to:

receive an out-of-band message at a mobile unit;

analyze the message to determine if it contains pushed data, wherein the pushed data reflects a server initiated data transfer that is based on predetermined criteria;

determine, if the message contains pushed data, whether the data is appropriate for a session currently being hosted by the mobile unit; and

post the data to the session if the data is appropriate for the session, wherein the determining and posting operations cooperate in order to achieve a filtering function for the mobile unit such that only selected data is posted to the session.

10. (Original) The system of Claim 9, wherein the logic is further operable to:

analyze the data to determine if it is static or dynamic; and

initiate storing the data if it is static.

11. (Original) The system of Claim 10, wherein analyzing the data comprises determining whether an indicator in the data indicates that the data is dynamic.

12. (Original) The system of Claim 10, wherein the logic is further operable to:

determine, if the data is dynamic, whether to store the data; and

initiate storing the dynamic data if it should be stored.

13. (Original) The system of Claim 12, wherein determining whether to store the data comprises determining whether an indicator in the data indicates that the data should be stored.

14. (Original) The system of Claim 12, wherein the logic is further operable to:
determine whether a trigger has been met for stored dynamic data;
determine, if a trigger has been met, whether the data is appropriate for a session
currently being hosted by the mobile unit; and
post the data to the session if the data is appropriate.

15. (Original) The system of Claim 10, wherein the logic is further operable to:
detect the initiation of a session;
determine whether the stored static data is appropriate for the session being initiated;
and
post the stored data to the session being initiated if the stored data is appropriate.

16. (Original) The system of Claim 9, wherein the data is received out-of-band in
a vendor-specific extension of an agent advertisement message.

17. (Previously Presented) A system for managing pushed data at a mobile unit, comprising:

means for receiving an out-of-band message at a mobile unit;

means for analyzing the message to determine if it contains pushed data, wherein the pushed data reflects a server initiated data transfer that is based on predetermined criteria;

means for determining, if the message contains pushed data, whether the data is appropriate for a session currently being hosted by the mobile unit; and

means for posting the data to the session if the data is appropriate for the session, wherein the determining and posting operations cooperate in order to achieve a filtering function for the mobile unit such that only selected data is posted to the session.

18. (Original) The system of Claim 17, further comprising:

means for analyzing the data to determine if it is static or dynamic; and

means for storing the data if it is static.

19. (Original) The system of Claim 18, wherein analyzing the data comprises determining whether an indicator in the data indicates that the data is dynamic.

20. (Original) The system of Claim 18, further comprising:

means for determining, if the data is dynamic, whether to store the data; and

means for storing the data if it should be stored.

21. (Original) The system of Claim 20, wherein determining whether to store the data comprises determining whether an indicator in the data indicates that the data should be stored.

22. (Original) The system of Claim 20, further comprising:
means for determining whether a trigger has been met for stored dynamic data;
means for determining, if a trigger has been met, whether the data is appropriate for a session currently being hosted by the mobile unit; and
means for posting the data to the session if the data is appropriate.

23. (Original) The system of Claim 18, further comprising:
means for detecting the initiation of a session;
means for determining whether stored static data is appropriate for the session being initiated; and
means for posting the stored data to the session being initiated if the stored data is appropriate.

24. (Original) The system of Claim 17, wherein the data is received out-of-band in a vendor-specific extension of an agent advertisement message.

25. (Previously Presented) A system for managing pushed data at a mobile unit, comprising:

a service access manager operable to receive an out-of-band message at a mobile unit and analyze the message to determine if it contains pushed data, wherein the pushed data reflects a server initiated data transfer that is based on predetermined criteria; and

a data push manager operable to determine, if the message contains pushed data, whether the data is appropriate for a session currently being hosted by the mobile unit and to post the data to the session if the data is appropriate for the session, wherein the determining and posting operations cooperate in order to achieve a filtering function for the mobile unit such that only selected data is posted to the session.

26. (Original) The system of Claim 25, wherein the data push manager is further operable to analyze the data to determine if it is static or dynamic and to initiate storing the data if it is static.

27. (Original) The system of Claim 26, wherein analyzing the data comprises determining whether an indicator in the data indicates that the data is dynamic.

28. (Original) The system of Claim 26, wherein the data push manager is further operable to determine, if the data is dynamic, whether to store the data and to initiate storing of the dynamic data if it should be stored.

29. (Original) The system of Claim 28, wherein determining whether to store the data comprises determining whether an indicator in the data indicates that the data should be stored.

30. (Original) The system of Claim 28, wherein the data push manger is further operable to:

- determine whether a trigger has been met for stored dynamic data;
- determine, if a trigger has been met, whether the data is appropriate for a session currently being hosted by the mobile unit; and
- post the data to the session if the data is appropriate.

31. (Original) The system of Claim 26, wherein the data push manger is further operable to:

- detect the initiation of a session;
- determine whether stored static data is appropriate for the session being initiated; and
- post the stored data to the session being initiated if the stored data is appropriate.

32. (Original) The system of Claim 25, wherein the data received out-of-band in the vendor-specific extension of an agent advertisement message.

33. (Previously Presented) A system for managing pushed data at a mobile unit, comprising:

a service access manager operable to:

receive an out-of-band message at a mobile unit, and

analyze the message to determine if it contains pushed data, wherein the pushed data reflects a server initiated data transfer that is based on predetermined criteria;

a data push manager operable to:

determine, if the message contains pushed data, whether the data is appropriate for a session currently being hosted by the mobile unit,

post the data to the session if the data is appropriate for the session, wherein the determining and posting operations cooperate in order to achieve a filtering function for the mobile unit such that only selected data is posted to the session,

analyze the data to determine if it is static or dynamic,

initiate storing the data if it is static,

determine, if the data is dynamic, whether to store the data,

initiate storing the dynamic data if it should be stored,

detect the initiation of a session,

determine whether stored static data is appropriate for the session being initiated,

post the stored static data to the session being initiated if the stored data is appropriate,

determine whether a trigger has been met for stored dynamic data,

determine, if a trigger has been met, whether the dynamic data is appropriate for a session currently being hosted by the mobile unit, and
post the dynamic data to the session if the data is appropriate.

ATTORNEY DOCKET NO.
062891.0508
Confirmation No.: 8274

PATENT APPLICATION
10/004,320

26

Appendix B: Evidence

NONE

ATTORNEY DOCKET NO.
062891.0508
Confirmation No.: 8274

PATENT APPLICATION
10/004,320

27

Appendix C: Related Proceedings

NONE